

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Unbundled Access to Network Elements)	WC Docket No. 04-313
)	
Review of the Section 251 Unbundling)	CC Docket No. 01-338
Obligations of Incumbent Local Exchange)	
Carriers)	

**COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE
DISTRICT OF COLUMBIA**

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I.	SUMMARY OF COMMENTS	

Pursuant to the Federal Communications Commission's ("FCC") *Interim Unbundling Order*, the Public Service Commission of the District of Columbia ("DCPSC") submits the following comments. The DCPSC opened a proceeding, Formal Case No. 1024, to resolve the issues presented by the FCC in the *Triennial Review Order*, but because of the issuance of the *USTA II* decision, the DCPSC did not complete its proceeding or make any factual determinations. Although the DCPSC's record is incomplete, the DCPSC will be filing some confidential responses to DCPSC information

requests submitted by two local exchange carriers (“LECs”) to assist the FCC in its deliberations in a supplemental filing.

II. SUMMARY OF DCPSC PROCEEDINGS

On September 23, 2004, the DCPSC opened Formal Case No. 1024 to resolve the issues raised by the *Triennial Review Order*. The DCPSC made Verizon Washington DC, Inc. (“Verizon DC”), the District of Columbia’s incumbent local exchange carrier (“ILEC”), and all competitive local exchange carriers (“CLEC”) certificated in the District of Columbia mandatory parties to this proceeding, while the District of Columbia Office of the People’s Counsel was automatically included as a party pursuant to its statutory rights and obligations. Ultimately, the DCPSC divided the issues into three separate proceedings within Formal Case No. 1024: the enterprise switching proceeding; the batch hot cut proceeding; and the granular analysis proceeding. No party challenged the FCC’s “no impairment” finding for enterprise switching, and the DCPSC closed that portion of its proceeding on November 17, 2003.

A. Batch Hot Cut Proceeding

On October 7, 2003, the DCPSC requested parties to comment on how the batch hot cut issues should be handled in the District of Columbia, with particular emphasis on whether the DCPSC should coordinate with other Verizon jurisdictions to develop a batch hot cut process. After receiving comments, the Commission determined that it would adopt the batch hot cut process developed in New York, making modifications necessary to accommodate any differences between New York and the District of Columbia. In December 2003, Verizon DC submitted its batch hot cut proposal, based on the New York proposal but tailored to the District of Columbia. Other parties

submitted preliminary testimony and comments on this proposal in January 2004. On February 11, 2004, the Commission revised the procedural schedule for the batch hot cut portion of the proceeding, scheduling a workshop for interested parties, establishing a discovery schedule, establishing deadlines for submitting testimony, and scheduling hearings for April 27 through 29, 2004.

Before the issuance of the *USTA II* decision, the Commission had held its first workshop (on February 17, 2004) and begun the discovery process. However, upon the release of the *USTA II* decision, the Commission stayed both its batch hot cut and granular analysis proceedings on March 3, 2004. Thus, parties were in the midst of discovery and had not yet submitted comprehensive testimony on the batch hot cut issues, and the DCPSC had not yet held its scheduled hearings when it stopped its proceeding.

B. Granular Proceeding

For administrative efficiency, the DCPSC decided to establish the same procedural schedule for the mass market switching, dedicated transport, and enterprise loop granular analyses, because Verizon DC chose to present a triggers case for all three UNEs. The DCPSC permitted three rounds of testimony, with discovery occurring during each round. Hearings were scheduled for the week of March 15 through March 19, 2004. When the *USTA II* decision was released, Verizon DC had filed its initial testimony, and the other parties had submitted responsive testimony. No party had submitted rebuttal testimony, because the due date for that testimony was March 4, 2004. As noted above, the DCPSC stayed all proceedings in Formal Case No. 1024 on March 3, 2004.

C. State of the DCPSC Record

The DCPSC's rules of practice and procedure require the submission of prefiled testimony but do not permit this testimony to be placed on the record before it is presented as an exhibit at a formal hearing, so it can be subject to cross examination by other parties. Because the DCPSC suspended its batch hot cut proceeding before the submission of all prefiled testimony and before the hearing, there is no batch hot cut testimony or any other information on the record. Thus, there is no record to summarize on the batch hot cut issues.

In the granular proceeding, the parties submitted initial and responsive but not rebuttal testimony on the mass market switching, dedicated transport, and enterprise loops triggers cases. When the DCPSC suspended its proceedings, there had been no hearing, so none of the prefiled testimony was on the record. However, during the discovery process, the DCPSC, which does not participate as a party in its proceedings, issued two sets of orders requiring Verizon DC and competitive LECs to respond to certain information requests. The DCPSC indicated that these responses would be placed on the formal record for Formal Case No. 1024. In response to these orders, Verizon DC and some of the competitive LECs filed confidential information regarding their switch placement, dedicated transport routes, and enterprise loop installations in the District of Columbia and the northern Virginia and suburban Maryland areas, where these facilities serve or connect to facilities in the District of Columbia. This confidential information is the only substantive information on the granular analysis portion of the record at this time.

The DCPSC cannot summarize the data request responses or make any findings based on this information, however, because this information is incomplete. The DCPSC did not receive data from all of the competitive LECs actively serving customers in the District of Columbia, so it is unclear whether the non-responsive competitive LECs have mass market switching, dedicated transport, and/or enterprise loop facilities in the District of Columbia. Other competitive LECs that did provide confidential data now object to the transmission of that data to the FCC in this proceeding, so the DCPSC cannot transmit that data to the FCC. Only two parties in Formal Case No. 1024 have permitted the DCPSC to release their data responses to the FCC. Thus, the DCPSC will be submitting copies of its information request orders and the responses of the parties that permitted transfer of their confidential data to the FCC, with the caveat that this information does not provide a complete picture of the existence of competitive mass market, dedicated transport, or enterprise loop facilities in the District of Columbia.¹

Respectfully submitted,

/s/
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¹ Due to equipment problems at the DCPSC, the DCPSC is unable to file the confidential information at this time. The DCPSC will supplement its filing with the confidential information as soon as this problem is resolved.